

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10724 OF 2016

Shriniwas Ramakant Rajurkar
Age: 39 years, Occu.: At present unemployed,
R/o Vaishnav Galli, Gangakhed,
Dist. Parbhani.

..PETITIONER

VERSUS

1. State of Maharashtra
Through Principal Secretary
Department of Forest,
Government of Maharashtra,
Mantralaya, Mumbai.
2. Additional Principal Chief Conservator
of Forest (Administration Subordinate Cadre),
Vanbhavan, Nagpur.
3. Dy. Conservator of Forest
Parbhani Division, Karegaon Road,
Parbhani.

..RESPONDENTS

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Mr. Sunil B. Jadhav, Advocate for petitioner.
Mr. V.S. Badkh, A.G.P. for respondents.

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**CORAM : ANOOP V. MOHTA &
SUNIL K. KOTWAL, JJ
DATED : 27th JUNE, 2017**

ORAL JUDGMENT (Per: ANOOP V. MOHTA, J.) :

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties.

2. Petitioner has challenged the order dated 28th June, 2016 passed by Maharashtra Administrative Tribunal (the “Tribunal”), Mumbai, Bench at Aurangabad, whereby petitioner's original application was dismissed resulted into denial to his claim of regularisation of service as a labour. Heard learned Counsel appearing for parties.

3. Read Government Resolution dated 16th October, 2012 and reasoned order passed by the Tribunal. We have noted that though impugned resolution is dated 16th October, 2012, there is nothing to reflect that the labourer must be physically in service on 16th October, 2012 to claim regularisation. The petitioner was terminated in the year 2004. The termination order was challenged in Court but dismissed in default on 08th January, 2007. Clause (5) of the resolution itself provides that though labour's litigations and/or cases even if pending, those labours can be considered for regularisation, provided they must withdraw the litigation. This itself means such person whose litigations are pending on the date 16th October, 2012, or even otherwise terminated earlier, are eligible to claim permanency, based upon resolution, provided, they are otherwise eligible including the age factor. It is also clear that earlier termination even, if any, prior to 16th October, 2012, is no reason to deny the claim of permanency to who is otherwise eligible as per the resolution.

4. The petitioner had been working from 1993 to 2003. Paragraph no.3 reflect the chart of his period of service and total days of work. The petitioner admittedly had worked for more than 240 days in each year till the date of his termination in the year 2003. The order of termination was challenged. However, same was dismissed for default in the year 2007. As per the resolution, the basic requirement is that such person should have served for more than 240 days, either continuously or in piecemeal in each year from 01st November, 1994 to 30th June, 2004. The petitioner admittedly, qualified for regularisation in view of above position on record. He worked continuously for more than five years, 240 and above days in every year. There is nothing on record to point out that such labourer must be in service on 16th October, 2012.

5. For the reasonings so given above, we are not inclined to accept that he was not in service on/or not working as labour on 1st June, 2004, therefore disentitled the regularisation. Whosoever worked during the prescribed period as per resolution, from 01st October, 1994 to 30th June, 2015 continuously and/or in piecemeal and completed 240 days in each year for five years, is entitled for regularisation, provided is otherwise eligible. Except this, there is no issue against the petitioner as petitioner is entitled for regularisation as otherwise eligible as there is no age bar affecting his claim. Therefore, taking over all view of the matter, we are inclined to interfere the order passed by the Tribunal dated 28th June, 2016. The impugned order therefore is set aside. Original application is

allowed to the extent of regularisation of services of the petitioner as provided by Government Resolution dated 16th October, 2012.

6. Considering the peculiarity of the facts and circumstances of the case, we are inclined to pass following order:

O R D E R

- i) Impugned order dated 28th June, 2016 passed by the Tribunal is quashed and set aside.
- ii) Respondents are directed to regularise the services of petitioner as prayed provided by Government Resolution dated 16th October, 2012, as early as possible.
- iii) Petition is allowed. Rule is made absolute accordingly.
No costs.

(**SUNIL K. KOTWAL, J.)**

(**ANOOP V. MOHTA, J.)**

SSD